

## Federal Court of Appeal Decision on *Canada (Attorney General) v. Powless* Information Sheet



On December 15, 2025, the Federal Court of Appeal (FCA) released its decision in *Canada (Attorney General) v. Powless* ([2025 FCA 226](#)) concerning the appeal by Canada of the Federal Court's July 10, 2025 decision in *Powless v. Canada (Attorney General)* ([2025 FC 1227](#)).

The FCA quashed Indigenous Services Canada's (ISC) decision to deny, on appeal, Ms. Powless' Jordan's Principle request for medically required mould remediation in the home for her two grandchildren and ultimately dismissed Canada's appeal of the Federal Court's decision.

The FCA found that ISC's appeal decision denying Ms. Powless' Jordan's Principle request was unreasonable because ISC's appeal decision was not justified, transparent, or clear. The FCA ordered ISC to redetermine the request based on the FCA's reasonings.

This case affirms that:

- ISC must clearly demonstrate that its **decision-making aligns with the Canadian Human Rights Tribunal's (Tribunal) orders on Jordan's Principle**. The FCA found it was unreasonable for ISC to deny the request mainly because mould remediation was not an existing government service, without clearly explaining how ISC arrived at that conclusion. More specifically, the reasons should clearly illustrate how ISC applied the governing principles (unique needs of the child, substantive equality, culturally appropriate services and best interests of the child), as set out by Tribunal orders, to the key facts and central issues of the case.
- ISC must give **clear and understandable reasons** that respond to the information in the request when making a determination. In this case, the FCA found that ISC's denial rationale did not adequately explain why the request was denied.
- ISC must consider the **real-world stakes for the child** when making a determination about a request. The FCA confirmed that ISC must explain how their

determination considers the safety and best interests of children and that ISC understands the consequences of a denial for a child. In this case, the FCA found that ISC's denial rationale did not demonstrate any consideration the denial would have on the children, despite medical evidence submitted with the request, including the health consequences or risk of child welfare involvement given the unsafe living considerations.

This ruling reinforces that ISC's Jordan's Principle decisions must be **reasonable, well-explained and grounded in the specific circumstances of the child**. The ruling also upholds the **Tribunal's orders on Jordan's Principle and affirms that the Tribunal's orders govern ISC's Jordan's Principle implementation and decision-making**. It raises the accountability bar for ISC in its decisions regarding Jordan's Principle requests and demonstrates that the courts will intervene to hold ISC accountable if it does not abide by these standards on its own.

This information sheet contains general information about the Powless decision and is **not legal advice**.

### Impact

This decision may impact families who have received Jordan's Principle denials that are unclear or feel disconnected from their child's real needs.

For families, this decision means that:

- ISC's determinations must be aligned with the Tribunal's orders on Jordan's Principle. ISC must clearly show it has determined a request based on the information included in the request, the child's needs, substantive equality, the best interests of the child and ensuring culturally relevant service provision.
- ISC's determinations and reasonings must be clearly explained, not based on vague statements, bureaucratic responses or broad categories.

Determinations should trace ISC's decision-making framework, meaning when families review their determination, they should be able to see what criteria or considerations ISC applied when reviewing the request and how those led to the final decision.

- ISC must show that it considered the real impacts their determination has on the child, including the child's health and safety.
- Courts can require ISC to revisit decisions that are not properly reasoned, even if the final outcome is not guaranteed to change.

The FCA's decision does not mean that ISC must approve mould remediation in homes in every Jordan's Principle request.

Instead, it confirms that families are entitled to decisions that are clear, fair, grounded in the Tribunal's orders on Jordan's Principle and each child's situation.

## Federal Court of Appeal's Analysis and Ruling

The FCA undertook its own analysis of the reasonableness of ISC's appeal decision denying Ms. Powless' Jordan's Principle request for medically required mould remediation in the home for her two grandchildren and ultimately dismissed Canada's appeal of the Federal Court's decision.

### Standard of Review

The FCA agreed that reasonableness was the correct standard for reviewing ISC's decision. Unlike the Federal Court, which focused more on whether ISC applied Jordan's Principle correctly, the FCA focused on whether ISC clearly justified its decision. The FCA conducted its own assessment of whether the ISC decision was reasonable.

### Reasonableness of ISC's Decision

The FCA concluded that ISC's reasons for denying the Jordan's Principle request were not justified. The FCA expressed no view on what ISC decided, but rather took issue with how ISC failed to adequately and transparently explain that decision. The FCA found that ISC's decision did not:

- Accurately reflect what the Expert External Review Committee found;
- Explain how the decision aligned with the legal framework created by the Tribunal's orders on Jordan's

Principle;

- Adequately grapples with the central issues or key points in its reasoning;
- Show that the serious health and safety risks to the children were meaningfully considered.

### Remedy

The FCA dismissed Canada's appeal and remitted the matter back to ISC to reconsider the request in accordance with the FCA's findings. This means ISC must reconsider the request and provide reasons that clearly explain how the decision fits with the Tribunal's orders on Jordan's Principle, the evidence, and the children's circumstances.

### Background

Ms. Powless, a First Nations grandmother, is the caregiver for her two young granddaughters, both of whom have asthma. The family lives in a multigenerational on-reserve home contaminated with mould, which has significantly worsened the children's health, causing frequent coughing, exercise intolerance, and missed school.

In June 2022, Ms. Powless placed a request to Jordan's Principle for mould remediation and temporary housing during repairs. Her request detailed the harmful impact of mould exposure and inadequate housing on her granddaughters' health and included contractor estimates for the remediation work.

In January 2024, ISC denied the request, stating that major renovations fall outside the scope of Jordan's Principle and that the request did not sufficiently link the services sought to the children's needs. Ms. Powless appealed, but ISC denied the request. She sought judicial review, which was discontinued when ISC agreed to reconsider the application.

In September 2024, ISC denied the request again, concluding that Jordan's Principle does not apply to mould remediation because it is not an existing government service. Ms. Powless appealed once more and requested funding for advocacy costs.

In November 2024, the Expert External Review Committee reviewed the appeal. While acknowledging the urgency of the children's health situation, the Committee upheld the denial, finding that the request amounted to a major capital renovation outside the scope of Jordan's Principle. The Committee strongly advised the family to relocate due to unsafe housing conditions but denied the requested funding.

Later that same day, ISC's Senior Assistant Deputy Minister (ADM), as final decision-maker, issued a denial letter relying in part on the Committee's report. The Senior ADM concluded that Jordan's Principle did not apply because the request was not tied to an existing government service and because Jordan's Principle does not extend to renovations. The Senior ADM also denied the appeal for advocacy costs. Ms. Powless sought judicial review of this decision, and on July 10, 2025, the Federal Court ruled in her favour. The Federal Court found that the ISC took an overly narrow approach to Jordan's Principle, failed to properly consider the children's health and best interests, and did not apply a substantive equality lens. The Federal Court quashed the decision and sent it back to the ISC for reconsideration.

On August 11, 2025, Canada filed a Notice of Appeal to the Federal Court of Appeal, seeking to overturn this decision.

For more information on Jordan's Principle, including information sheets and the latest updates on the case before the Tribunal, please visit [jordansprinciple.ca](http://jordansprinciple.ca).